

Application No. 10/039,102  
Reply to Office Action dated September 3, 2004

### REMARKS/ARGUMENTS

Applicant has carefully reviewed the Office Action dated September 3, 2004, regarding the above-referenced patent application. Currently, claims 1-86 are pending in the application, wherein claims 11-83, 85 and 86 are withdrawn from consideration. Claims 1-10 and 84 have been rejected by the Examiner. Favorable consideration of the following remarks is respectfully requested.

Claims 1-10 and 84 stand rejected under 35 U.S.C. §102(e) as being anticipated by Yadav et al. (U.S. Patent No. 6,391,044). The Examiner asserts Yadav et al. disclose each and every element of the claimed invention in Figures 1-3, 14 and 15. Applicant respectfully traverses this rejection.

Yadav et al. appear to suggest a guidewire (10) having a filter membrane (20) that can be expanded within the body by retracting a moveable core (40) proximally through the guidewire (10). Multiple deploying fibers (30) are each shown attached at a first end (27) thereof to the moveable core (40), and at a second end thereof to the filter membrane (20) at attachment points (22). See col. 4, lines 53-67. A number of collapsing fibers (35), in turn, extend through a side port of the guidewire (10), and are connected to the moveable core (40) to permit the filter membrane (20) to be collapsed.

Claim 1 teaches an elongate tubular member and a first flexible member having a proximal end that passes through a first proximal port of the elongate member and a distal end fixed to the elongate member at a first point distal the first proximal port, wherein the first point is located at a circumferential position approximately 180° from the first proximal port. In other words, the flexible member passes through the proximal port on one side of the elongate member and is fixed at a distal point on the opposite side of the elongate member. Applicants assert that Yadav et al. fail to teach at least this element of the claimed invention. As shown in Figure 1 of Yadav et al., it appears that the first end (27) of each deploying fiber (30) is not located at a position circumferentially apart from the proximal port, but instead appears to be located at the same circumferential position along the guidewire (10). For at least this reason, Applicant respectfully asserts that Yadav et al. fail to teach or suggest the claimed invention.

A first flexible member as claimed in claim 1 may form an arced pathway such as a helical pathway along a portion of the elongate member, as best shown in Figures 1D and 1E.

Application No. 10/039,102  
Reply to Office Action dated September 3, 2004

A flexible member positioned in such a way may be used as a filter device for temporary placement in a vessel. Such a flexible member may be extended or retracted to create an arced pathway of varying size in order to be adaptable to a vessel wall.

Applicant respectfully asserts that claim 1 is patentable over Yadav et al. for at least the above reasons. Claims 2-10 and 84 depend from claim 1 and add significant additional elements, therefore, they are also believed to be in condition for allowance.

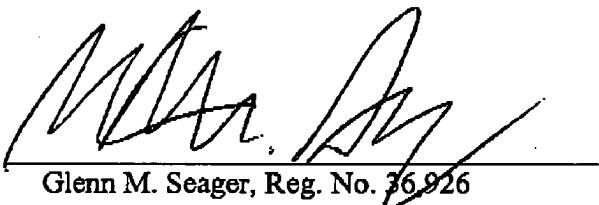
Reexamination and reconsideration of the current application is respectfully requested. It is respectfully submitted that claims 1-10 and 84 are in condition for allowance and issuance of a notice of allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

W. Martin Belef

By his attorney,

Date: Sept. 30, 2004



Glenn M. Seager, Reg. No. 36,926

CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, Minnesota 55403-2420  
Telephone: (612) 677-9050  
Facsimile: (612) 359-9349